

# Order

Michigan Supreme Court  
Lansing, Michigan

March 16, 2018

Stephen J. Markman,  
Chief Justice

156512

Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Kurtis T. Wilder  
Elizabeth T. Clement,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 156512  
COA: 338851  
St. Clair CC: 13-002103-FH

JAMES ROBERT MABEN,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the July 26, 2017 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the sentence of the St. Clair Circuit Court, and we REMAND this case to that court for resentencing. In light of the prosecutor's factual concessions on remand and the redaction of all references to threats or witness intimidation in the presentence report, there is no record evidence to support a finding that the defendant attempted to interfere with the administration of justice so as to warrant the assignment of 10 points for Offense Variable 19 (OV 19), MCL 777.49. Because the deduction of the 10 points erroneously scored under OV 19 changes the applicable sentencing guidelines range, the defendant is entitled to resentencing. See *People v Kimble*, 470 Mich 305 (2004). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



t0313

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 16, 2018

Clerk